

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

TERVES LLC,	)	CASE NO. 1:19 CV 1611
	)	
Plaintiff,	)	
	)	
v.	)	JUDGE DONALD C. NUGENT
	)	
YUEYANG AEROSPACE NEW	)	
MATERIALS CO. LTD., et al.,	)	<u>MEMORANDUM OPINION</u>
	)	<u>AND ORDER</u>
Defendants.	)	
	)	

This matter is before the Court on the Ecometal Defendants' Motion for Stay Execution of Judgment. (ECF #232). Plaintiff filed a Response to the motion, and Defendants filed a Reply. (ECF #234, 235).

Under Fed. R. Civ. P. 62(b), a party may obtain a stay of proceedings to enforce a judgment if, at any time after judgment, they provide a bond or other security that is approved by the Court. The stay automatically takes effect when the court approves the bond. In this case, Defendants seek to obtain a stay of execution pending appeal, prior to posting a bond. The parties agree that an appropriate bond should be at least \$901,844. Plaintiff, Terves suggests that the bond should also include an additional \$30,000 to cover the amount it has spent to date attempting to collect the judgment on this case in Canada. Defendants argue that there is no legal basis upon which to require the deposit of collection related fees. The Court agrees that

the appropriate amount of bond in this case is \$901,844, a sum that covers the judgment and future interest and per diem costs through October 31, 2023. The Court approves bond in this amount with the following conditions:

- (1) no stay will be in effect until after the bond is deposited in the Court's escrow account pursuant to Local Rule 67, and the Ecometal Defendants file a certification of deposit with this Court, and notice the Plaintiff;
- (2) the bond shall be deposited, and the certification filed, no later than February 24, 2023;
- (3) if Plaintiff has succeeded in collecting the judgment before the Ecometal Defendants deposit the bond, the bond will not be approved and no stay will issue;
- (4) a stay on the execution of judgment will be in effect until the resolution of the Federal Circuit appeal of this case;
- (5) if the Federal Circuit does not rule by October 15, 2023, the Ecometal Defendants shall add one month of post-judgment interest to the escrow account, and shall continue to do so on the 15<sup>th</sup> of each following month until the Federal Circuit appeal is resolved;
- (6) if the Federal Circuit affirms judgment as to either of the Ecometal Defendants, the escrow funds will be distributed to Terves, minus any unaccrued interest.

Defendant's Motion for Stay of Execution of Judgment is held in abeyance pending the satisfaction/acceptance of the conditions outlined above. Defendants certification of deposit will signify agreement to the future conditions. IT IS SO ORDERED.

Date:

February 15, 2023

Donald C. Nugent

Donald C. Nugent  
Senior United States District Judge